

EXHIBIT G

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

- - - - -

IN THE MATTER OF)
)
IN RE BAIR HUGGER FORCED AIR)
WARMING)
PRODUCTS LIABILITY LITIGATION)
)
Plaintiff,)
v.)
3M COMPANY AND ARIZANT)
HEALTHCARE INC.)
Defendant.)

) PRETRIAL ORDER NO: 7
) Protective Order
) MDL No. 15-2666
) (JNE/FLN)

- - - - -

DEPOSITION OF PAUL MCGOVERN
VOLUME II
Thursday, January 5, 2017
AT: FAEGRE BAKER DANIELS LLP
Taken at:
7 Pilgrim Street
London EC4V 6LB
United Kingdom

Court Reporter:
Louise Pepper: Accredited Real-time Reporter
Videographer: Simon Addinsell
JOB NO. 117121

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2
3 **A P P E A R A N C E S**

4 Appearing for the Plaintiff:

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10 **MESHBESHER & SPENCE**
11 **1616 Park Avenue**
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14 **MR. COREY GORDON**
15 **BLACKWELL BURKE**
16 **431 South Seventh Street**
17 **Minneapolis, MN 55415**

18 **MS. KATHERINE NEWMAN**
19 **FAEGRE BAKER DANIELS**
20 **7 Pilgrim Street, London EC4V 6LB**

21 Appearing for the Witness:

22 **MR. ANDREW HEAD**
23 **MR. BRYAN SHACKLADY**
24 **FORSTERS**
25 **31 Hill Street**
London W1J 5LS

1
2 Exhibit 9 Document entitled "Do324
3 Forced Air Warming Devices
4 Increase Bacterial
5 Contamination of Operative
6 Field? - Simulated experiment
7 analysis".

8 Exhibit 10 Email chain between336
9 Paul McGovern and Val
10 Edwards-Jones "Re Saturday",
11 dated 26 November - 20
12 December 2009

13 Exhibit 11 Email chain between337
14 Paul McGovern, David Leaper,
15 Andrew Sprowson and Thomas
16 Symes, "Prof David Leaper
17 Visit", dated 10 September - 2
18 December 2009

19 Exhibit 12 Email chain between342
20 Paul McGovern and Mike Reed,
21 dated 21 February 2010,
22 "Laminar flow tests".

23 Exhibit 13 Article co-published by347
24 Paul McGovern and others,
25 entitled "Forced-air warming
and ultra-clean ventilation do
not mix." Bates stamped
Belani_000190-000197

Exhibit 14 Article entitled353
"Patient Warming Excess Heat:
The Effects on Orthopedic
Operating Room Ventilatio
Performance", Bates stamped
Belani_000040-000045

Exhibit 15 Email chain between359
Mark Albrecht, Paul McGovern
and others, dated 1 February
2011, "Manuscript with updated
joint infection data covering
an additional 200 or so".

Exhibit 16 Excel spreadsheet with365
data analysis

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2 **W I T N E S S I N D E X**

3 Examination by MR. SACCHET239

4 Examination by MR. C. GORDON459

5 **E X H I B I T I N D E X**

6 Exhibit 1 Email chain between P.263

7 McGovern and M. Albrecht,

8 Bates stamped Albrecht_0016487

9 Exhibit 2 Email chain between Mark287

10 Albrecht, Paul McGovern, Mike

11 Reed and others, dated 30 June

12 to 3 July, 2010

13 Exhibit 3 Forced Air Warming289

14 Demonstration DVD

15 Exhibit 4 CDC document entitled298

16 "Healthcare Infection Control

17 Practices Advisory Committee

18 Record of the Proceedings",

19 dated November 5-6, 2015,

20 previously marked as Exhibit

21 208, Bates stamped

22 3MBH01344612-01344685

23 Exhibit 5 Document entitled306

24 "Forced Air Warming (FAW) and

25 Surgical Site Contamination

First Draft" dated 27/9/09

Exhibit 6 Document entitled "Do308

Forced Air Warming Devices

Increase Bacterial

Contamination of Operative

Field? - Simulated

experimental analysis".

Exhibit 7 Email chain dated 8-11309

November, 2009, subject line:

"FAW"

Exhibit 8 Document Bates stamped316

3MBH00107863-00107870

1
2 Exhibit 17 Email chain between372

3 Mark Albrecht, Mike Reed, Paul

4 McGovern and others, dated 18

5 February - 1 March 2011,

6 "Signatures on Transmittal

7 Letter".

8 Exhibit 18 Email chain between373

9 Paul McGovern and Mark

10 Albrecht, dated 19 May - 23

11 May, 2011, "Fwd: JBJS [BR] log

12 No. 27124 - Invitation to

13 resubmit

14 Exhibit 19 Email chain "Re382

15 McGovern" between Robin

16 Humble, Scott Augustine, Paul

17 McGovern and others plus

18 attachment entitled "Observed

19 reduction in periprosthetic

20 joint infections: Antibiotics

21 or warming technique?", dated

22 25 March - 17 June 2016.

23 Exhibit 20 Journal of Bone and391

24 Joint Surgery document

25 entitled "Wound Complications

Following Rivaroxaban

Administration".

Exhibit 21 Paper entitled "Return396

to theatre following total hip

and knee replacement, before

and after the introduction of

rivaroxaban".

Exhibit 22 Journal of403

Tissueviability paper entitled

"A prospective randomised

study comparing the jubilee

drinking method to a standard

adhesive dressing for total

hip and knee replacements",

authored by Neil G. Burke and

others.

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1 Exhibit 23 Email chain between410
2 Mark Albrecht and Mike Reed,
3 "Full workup of stats you
4 requested", dated 29 November,
5 2011.

6 Exhibit 24 Email from Mark416
7 Albrecht to Scott Augustine,
8 with attachment, dated
9 11/22/2015, Bates stamped
10 Albrecht_0002079-0002086

11 Exhibit 25 Anesthesia & Analgesia445
12 document entitled "Patient
13 Warming Excess Heat: Effects
14 on OR Ventilation Performance
15 During Total Knee
16 Replacement", Bates stamped
17 Belani_000002-000039

18 Exhibit 26 Email from Mark454
19 Albrecht to Paul McGovern and
20 others, "Fwd: A&A Decision for
21 MS#: AA-D-11-01334", dated 25
22 October 2011

23 Exhibit 27 Email chain between455
24 Mark ALbrecht, Mike Reed and
25 others, "Fwd: A&A DEcision for
MS#: AA-D-11-01334R1", dated
11 January 2012.

Exhibit 28 Spreadsheet, Bates461
stamped
AUGUSTINE_0005193-0005487

Exhibit 29 Printout of spreadsheet463
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Exhibit 30 Screenshots of FAW v500
CWB YouTube video

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P R O C E E D I N G S

THE VIDEOGRAPHER: This is Day 2 of the deposition
of Dr. Paul McGovern. The deposition started yesterday
4 January, today is 5 January 2017, and it is 9:24 a.m.
This is the beginning of DVD 1 in volume 2 of Dr. McGovern's
deposition. Everybody who was in the room yesterday is here
today.

Can I remind the witness he was sworn in
yesterday and is still under oath. Can you --

THE WITNESS: Yes.

THE VIDEOGRAPHER: You're on the record, counsel.
It is 25 past 9.

EXAMINATION BY MR. SACCHET:

BY MR. SACCHET:

Q. Good morning, Dr. McGovern.

A. Good morning.

Q. As I mentioned yesterday, my name is Mr. Sacchet,
and I represent the plaintiffs 3M. Yesterday my learned
friend on the other side reviewed some of the ground rules
for the deposition. I'm going to go through few more today,
just to make sure we're on the same page with respect to the
procedures for our conversation. As you know, I'll be
asking you questions under oath and you'll be responding to
them. If at any time you don't understand a question or if

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you don't hear the question, please let me know, okay?

A. Yes.

Q. As was mentioned yesterday, it's best for the
record and the court reporter, if I ask a question, that you
let me finish asking the question before you answer, and
I'll do the same with respect to you in refraining from
asking a question before you've finished your answer.
Please provide audible "Yes" or "No" answers with respect to
the questions as opposed to a nodding or shaking of the
head. Is that agreeable?

A. Yes.

Q. And if at any time you need a break, just let me
know, and I'll find an appropriate spot to pause.

A. Sure.

Q. Before we jump into your background, with respect
to your educational and professional history, just a few
preliminary items. You've never met me before, have you?

A. Not before yesterday, no.

Q. And prior to yesterday, you'd never spoken to me
before, be it via e-mail or phone?

A. That is correct.

Q. You've never spoken to any members of the
plaintiff's counsel in this matter, have you?

A. That is correct.

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Q. Have you ever spoken to anyone on the side of the
defense, prior to yesterday?

A. I'd received communications from various people on
the side of the defense. I have only communicated with them
through my lawyers.

Q. Okay. Do you recall who those individuals were
that attended the --

A. Stephen Llewellyn, from Faeger Baker Daniels.
I received a LinkedIn message from a lawyer in the United
States, but I don't remember their name.

Q. Do you recall the content of the message?

A. It was similar to the initial contact from Stephen
Llewellyn, saying that 3M would like to depose me, and
asking me to get back in touch to arrange that.

Q. And did you get back in touch to arrange that?

A. I did not reply to the LinkedIn message at all, and
I replied to Stephen Llewellyn through my lawyers when
I arranged legal representation.

Q. Okay. So other than contact via your attorney,
you've had no personal contact with anyone on the other
side?

A. That is correct.

Q. I know you spoke a little bit yesterday about your
background as well, and I'm going to review some of that

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in jubilee dressing that occurred during the time in which the data was collected for the McGovern study impacted infection rates?

MR. C. GORDON: Object to the form of the question: lack of foundation, incomplete hypothetical.

A. It's not possible to say, in my opinion. The numbers in this study are too small. You have a number of patients that is 124, and the numbers are too small to be able to draw a meaningful conclusion in terms of infection, with regard to these two variables, in my opinion.

BY MR. SACCHET:

Q. So if I could point out, to the extent that this would change your mind, the asterisks which are denoted in the right-hand column of the standard adhesive dressing column; do you see those?

A. Yes.

Q. And a single asterisk stands for a P value of less than 0.05; correct?

A. Mm-hm, yes.

Q. And a double asterisk stands for a P value of 0.01 and less?

A. Yes.

Q. And three asterisks stands for a P value of 0.001 or less; correct?

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A. Yes.

Q. The infection row has no such asterisk in it, does it?

A. That's correct.

Q. So, because we established earlier that statistical significance begins at 0.05, which is a single asterisk ...

A. Right.

Q. ... presumably this 0 percent infection rate, the difference between 0 and 0 is non-significant; correct?

A. No, that's not how I would interpret this. There is no data to draw a meaningful conclusion from. You need to have some data, by my understanding, to be able to draw a conclusion of statistical significance. You can't comment on whether these data are statistically significant. If one were designing this study purely to look at infection rates between the two dressings, it is likely that the study would need to include more patients and the study -- and to ensure it was sufficiently powered to be able -- "powered" meaning to have enough patients in it -- to see enough infections to be able to draw a meaningful conclusion.

The fact that there were no infections in 124 patients is not surprising, because infection rates are generally low. This is a problem of research in this area. Because infection is rare, thankfully, you need

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large numbers of patients in studies to see if one intervention has a difference with another intervention, in terms of infection rates. In my opinion, this study does not demonstrate superiority of one adhesive dressing over another, purely in terms of infection.

Q. Fair enough --

A. It may for other conditions, such as blistering and leakage, but for infection -- because those are more common -- consequences post-operation, and the study appears to have been adequately powered to identify those differences and state statistical significance. But for infection, there were not enough incidences of infection to be able to draw meaningful conclusions, or a difference between the two.

Q. Are you aware of any paper that is adequately powered that shows that a change from a standard adhesive dressing to a jubilee dressing would statistically significant -- significantly alter infection rates among arthroplasties?

A. I am not aware of any such paper.

Q. Are you aware of any published papers that suggest -- I should say that find statistically significant differences between joint infection rates from the use of

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MSSA screening versus non-screening?

A. Sorry, could you say that again, please?

Q. Are you aware of any evidence that is statistically significant that suggests that the use of MSSA screening significantly impacts the rate of deep joint infections among patients?

A. I'm not aware of any such papers.

Q. Are you aware of any evidence that pre-warming, when used in combination with intraoperative warming, significantly impacts deep joint infection rates among patients?

A. I am not aware of papers which provide evidence of that.

Q. Have you seen an article by Mr. Reed and another individual, bearing the last name Refaie, which analyzed the NHS SSI bundle?

A. I presume you mean Northumbria Foundation Trust. I am aware that Mr. Reed and Mr. Refaie have done research together. I may have seen such paper but I don't remember.

Q. Do you recall Mr. Reed, in that paper, making the statement: "A switch to the alternative conductive fabric warming led to a significant decrease in deep joint infections"?

A. I -- that statement sounds familiar but I don't